IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 830 OF 2006

Paschin Upnagar Jilla Mahila Aydyogik Sahakari Sanstha Federation Ltd. ... Petitioners

V/s.

State of Maharashtra and 3 ors. ... Respondents

WITH

WRIT PETITION (L) NO. 1066 OF 2006

Shalin Mahila Shikshan Sanstha & Ors. ... Petitioners

V/s.

State of Maharashtra & Ors. ... Respondents

Mr. M.M. Vashi for the petitioners.
Mr. G.W. Mattos, AGP for the respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 04th May, 2006

P.C.

. Both these petitions are being disposed of by this common order.

2. The petitioners are the federation registered under the Co-operative Societies Act, 1960 representing the Mahila Mandals in the city of Bombay, Bombay Suburbans and Thane district. The petitioners therefore being persons interested in the allotment of work to Mahila Mandal and Self Help Groups under the

Commissioner of Integrated Child Development Scheme (ICDS) of respondent No. 2, for Bombay, Bombay Suburban and Thane districts, have invoked Article 226 of the Constitution of India and seek to quash and set-aside the action of respondents of finalising the allotment of the work in question.

3. The object and purpose of scheme of ICDS is to provide digestible and nutritioned food to the children. The Apex Court has already by orders dated 18.11.2001 and 07.10.2004 directed the Central Government and various State Governments to implement various such schemes.

4. Respondent No. 2 on 16.10.2005 by advertisements, invited applications from Mahila Mandals under the ICDS scheme. Respondent No. 1 issued Government Resolution laying down a criteria for a selection of Mahila Mandals or Self Help Groups by resolution dated 28.08.2005. Respondent No. 2 issued circular on 15.12.2005 whereby, information was sought regarding the kitchens or place of cooking and equipments that will be used including the vehicles to supply the cooked foods. Respondent Nos. 3 & 4 further gave the advertisements based on the same on

06.02.2006 and 24.02.2006 and specified the above eligibility criteria. The respondents based on the scrutiny and further clarification dated 29.03.2006 started allotting work order under the ICDS scheme. On 29.03.2006 the respondents have allotted work in Bombay district but stayed the same in Thane district for amount of proper eligibility criteria. The petition was filed in the month of March, 2006. The another Writ Petition (L) No. 1066 of 2006 was filed on 24th April, 2006.

5. By an order dated 12th April, 2006, the respondents have been directed not to finalise the tenders in respect of Bombay Suburbans and Thane, even if they are processed.

6. Respondent No. 2 by affidavit dated 25th April, 2006 submitted that the work of allotment has already been completed in the Bombay city. A review in respect of the allotment pertaining to some applicants of Thane city are pending. As regards the allotment in the Bombay Suburban district, scrutiny has been done. However, in view of order dated 12th April, 2006 final decision is pending.

7. In so far as the allotment which have already been done, we are not inclined to interfere with the said allotment orders. In view of the scheme, there is definite urgency to provide good food to the children through these agencies. There is no case made out, now to interfere with the said order of allotment. It will not be in the interest of public at large to interfere in the order of allotment already made and work has been commenced.

8. However, considering the undisputed position on record, the respondents while inviting the tenders in question, nowhere specified the need of manufacturing units and or kitchen for the food in question must be in the local jurisdiction/district. This explanation was given subsequently. Therefore, parties at the relevant time though submitted their form, never knew the importance of having the kitchen units in the local jurisdiction, as clarified by the respondents in their clarification dated 18th March, 2006. This is an undisputed position that in the initial advertisement dated 06.02.2006 and 24.02.2006, there was no such mention about the mandatory requirement of production units or kitchens should be situated within the jurisdiction of the concerned area

or districts. The applications of the members of the petitioners cannot be rejected on this ground of not having production or kitchen units within jurisdiction of the concerned district or area at least for those areas where the contracts have yet to be awarded. In view of this undisputed position, we are of the view that as those applications are still pending for the decision, an opportunity needs to be given to the persons or parties who have applied in the Mumbai Suburban District and of Thane district.

9. Such applicant should submit their details of existence of kitchen or manufacturing units within the local jurisdiction, with a permission and or a licence from the (FDA) Food & Drugs Authority and or from the Municipal Corporation, Mumbai, within four weeks from the date of the order.

10. To achieve the object of the scheme and in the interest of justice, the petition is partly allowed as under :-

i. The parties in respect of the area of Greater Mumbai District and Thane to submit the details of kitchen or manufacturing units within the local

jurisdiction of the area or district with licence of Food & Drugs authority and or from Municipal Corporation's within four weeks from the date of this order.

ii. The respondents after receipt of the additional material, if any, to reconsider the applications received for allotment of work under ICD Scheme for Mumbai Suburban District & Thane District only.

iii. The ad-interim order dated 12.04.2006 stands vacated.

iv. The petition is disposed of accordingly.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]